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No. 83-1116

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

LUCY M. HUNT AND GUESS WHAT, INC.,
Petitioners,

vs.

STATE OF TENNESSEE,
Respondent.

On Petition For A Writ of Certiorari
to the Court of Criminal Appeals of Tennessee

RESPONSE TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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In response to the Brief in Opposition To Petition For Writ of Certiorari filed by the State of Tennessee, Petitioners desire to make known to the Court the recent decision of the Ninth Circuit Court of Appeals in the consolidated cases styled *J-R Distributors, Inc. v. Eikenberry,* ____F. 2d____, Nos. 82-3441, 82-3442, and 82-3500 through 82-3504 (9th Cir., Feb. 6, 1984) (available Westlaw CTA 9 database). This decision held the Washington State Anti-Obscenity Statute unconstitutional, though on grounds other than urged in Petitioner's Petition For Certiorari. The Opinion specifically referred to Washington House Bill 626, effective April 1, 1982, and subsequent to its enactment, codified as Wash. Rev. Code §9.68.140. This decision, which only very recently came to the attention of Peti-

tioners' counsel, should be noted as an amendment to Appendix F of the Petition For Writ of Certiorari heretofore filed, at Page A-47 thereof. The statement of the State of Tennessee, on Page 6 of its Brief In Opposition, to the effect that the State of Washington imposes fines comparable to those imposed in Tennessee should be disregarded. No state now allows a fine anywhere close to the maximum fines permitted under the Tennessee statute. This Honorable Court may take judicial notice that in obscenity cases in Shelby County, fines have been levied in the maximum amount of $50,000.00, against business defendants. In *State v. Lorene Summers and Tick Enterprises, Inc.*, (Shelby County, Tennessee Indictment No. 82315, On Appeal to the Court of Criminal Appeals at Jackson, Tennessee, as Shelby Criminal No. 110), a fine of $50,000.00 was levied against Tick Enterprises, Inc. In the case of *State of Tennessee v. Bill Davis, Latcherette Jamison and Guess What, Inc.*, (Shelby County, Tennessee Indictment Nos. 82309, 82310 and 82311, on Appeal to the Court of Criminal Appeals at Jackson, Tennessee, as Shelby Criminal No. 115), the Petitioner, Guess What, Inc., in the instant case, had three maximum fines of $50,000.00, or a total of $150,000.00, assessed against it.

CONCLUSION

Petitioners respectfully request that this Response To Brief In Opposition To Petition For Certiorari be considered by this Honorable Court, and that the relief requested in the original Petition be granted.

Respectfully submitted,

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